

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

GEORGE AMERICAN HORSE, Movant, vs. UNITED STATES OF AMERICA, Respondent.	5:14-CV-05094-JLV ORDER ON MOTIONS: ABEYANCE [DOCKET NO. 4] FOR TRANSCRIPTS [DOCKET NO. 5]
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This matter is before the court on movant George American Horse's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. See Docket No. 1. The matter has been referred to this magistrate judge pursuant to 28 U.S.C. § 636(b)(1) and the October 16, 2014, standing order of the Honorable Jeffrey L. Viken, district judge.

The claims alleged by Mr. American Horse in his motion are that his lawyer was ineffective in advising him to waive his rights under the Speedy Trial Act and in failing to advise him that he had a right to confront and cross-examine witnesses against him at a jury trial. See Docket No. 1. In addition, he claims that there are no transcripts in his case in violation of Fed. R. Crim. P. 11(g). Id.

Mr. American Horse requested transcripts of all proceedings in his case, including the jury trial transcript, in November, 2014. [Mr. American Horse never had a jury trial, so there are no transcripts of a jury trial available]. He was told it would cost \$240.00 to prepare those transcripts. Mr. American Horse does not have the money to pay for these transcripts, so he now moves the court to order

the transcripts to be prepared and sent to him. The court has accorded *in forma pauperis* status to Mr. American Horse.

As noted above, there is no jury trial transcript in this case to be prepared because there was no trial—Mr. American Horse pleaded guilty. The hearings in this case consist of: an initial appearance on August 14, 2012; a hearing to reconsider granting Mr. American Horse bond on March 11, 2013; a suppression hearing on May 10, 2013; a September 26, 2013, change of plea hearing; and a January 23, 2014, sentencing hearing. There is a reasonable probability that there may be discussions on the record at these hearings that touch on or are relevant to the issues raised in Mr. American Horse's § 2255 petition. Accordingly, the court will order transcripts from these hearings to be prepared.

Based on the foregoing, it is hereby

ORDERED that Mr. American Horse's request for transcripts [Docket No. 5] is granted. The court reporter is directed to prepare and file transcripts from:

1. the initial appearance on August 13, 2012;
2. the bond reconsideration hearing on March 11, 2013;
3. the suppression hearing on May 10, 2013;
4. the change of plea hearing on September 26, 2013; and
5. the sentencing hearing on January 23, 2014.

Upon such transcripts being filed, the clerk's office is directed to send copies of the transcripts to Mr. American Horse. It is further

ORDERED that Mr. American Horse's motion to hold this case in abeyance until he receives transcripts [Docket No. 4] is denied as moot.

DATED this 13th day of February, 2015.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Veronica L. Duffy", written in black ink.

VERONICA L. DUFFY
United States Magistrate Judge